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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,833	12/31/2001	Mac Apodaca	42P13085	4943
7590	05/07/2004		EXAMINER [REDACTED]	LEE, HSIEN MING
Trop Pruner & Hu PC 8554 Katy Freeway Suite 100 Houston, TX 77024			ART UNIT [REDACTED]	PAPER NUMBER 2823

DATE MAILED: 05/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/036,833	APODACA ET AL.
	Examiner Hsien-Ming Lee	Art Unit 2823

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 January 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5, 7, 11 and 13-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-5, 7, 11 and 13-23 is/are allowed.
- 6) Claim(s) 26 and 29 is/are rejected.
- 7) Claim(s) 24, 25, 27, 28, 30 and 31 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Remarks***

1. Claims 1-5, 7, 11 and 13-31 are pending in the application.

### ***Claim Objections***

2. Claim 24 is objected to because of the following informalities: lacks antecedent basis, i.e. "said insulator." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 26 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Xu et al. (US 2003/0052351).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

In re claim 26, Xu et al. teach an apparatus comprising:

- an adhesion layer (i.e. an interfacial layer, paragraph [0022]) having a rough surface since the interfacial layer made up the surfaces 28, 30 and 32, which are irregular or non-flat surface (Fig.4); and

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- a chalcogenide phase-change material 34 on the adhesion layer (Fig. 5 and paragraphs [0024], [0005]).

In re claim 29, Xu et al. also teach an apparatus comprising:

- an adhesion layer (i.e. an interfacial layer, paragraph [0022]) having a rough surface (Fig. 4);
- a dielectric layer 12, including layers 14, 16 and 18, said adhesion layer on the dielectric layer; and
- a phase-change material 34 on the adhesion layer (Fig. 5 and paragraphs [0024], [0005]).

***Allowable Subject Matter***

4. Claims 1-5, 7, 11 and 13-23 are allowed.
5. Claims 27, 28, 30 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claim 24 would be allowable if rewritten to overcome the objection as set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
7. Claim 25 objected to as being dependent upon an objected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. The following is a statement of reasons for the indication of allowable subject matter:  
The prior art of record neither teaches nor suggests an adhesion layer comprising *hemispheric grain polysilicon* (claim 1) or an adhesion layer comprising *silicon having a rough*

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*surface* (claim 11) or an interfacial layer having *three dimensional grains* (claim 19) and a phase-change material overlying the adhesion layer.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hsien-Ming Lee whose telephone number is 571-272-1863. The examiner can normally be reached on M-F (9:00 ~ 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olik Chaudhuri can be reached on 571-272-1855. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hsien-Ming Lee  
Primary Examiner  
Art Unit 2823

May 3, 2004

A handwritten signature in black ink, appearing to read "Hsien Ming Lee 5/3/04".